

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-31**

13 **VALERIE MARIE DELRIO**
109 Sonora Way
14 Corte Madera, CA 94925

A C C U S A T I O N

15 **Registered Nurse License No. RN 302192**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1979, the Board of Registered Nursing issued Registered
23 Nurse License Number RN 302192 to Valerie Marie Delrio (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on January 31, 2013, unless renewed.

26 ///

27 ///

[illegible]2
3
4

5
6
7

8
9
0

- 1
- 2

3

4
5
6

7

89

20

21

22
23

24

25
26
27

28

1 (b) Use any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
3 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
4 dangerous or injurious to himself or herself, any other person, or the public or to the
5 extent that such use impairs his or her ability to conduct with safety to the public the
6 practice authorized by his or her license.

7 (c) Be convicted of a criminal offense involving the prescription, consumption,
8 or self-administration of any of the substances described in subdivisions (a) and (b) of
9 this section, or the possession of, or falsification of a record pertaining to, the
10 substances described in subdivision (a) of this section, in which event the record of
11 the conviction is conclusive evidence thereof. . . .

12 10. Section 2765 of the Code provides:

13 A plea or verdict of guilty or a conviction following a plea of nolo contendere
14 made to a charge substantially related to the qualifications, functions and duties of a
15 registered nurse is deemed to be a conviction within the meaning of this article. The
16 board may order the license or certificate suspended or revoked, or may decline to
17 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
18 conviction has been affirmed on appeal or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
21 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
22 guilty, or dismissing the accusation, information or indictment.

23 REGULATORY PROVISION

24 11. California Code of Regulations, title 16, section 1444, states, in pertinent part:

25 A conviction or act shall be considered to be substantially related to the
26 qualifications, functions or duties of a registered nurse if to a substantial degree it
27 evidences the present or potential unfitness of a registered nurse to practice in a
28 manner consistent with the public health, safety, or welfare. . . .

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

///

///

///

FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Convictions of Substantially Related Crimes)
(Bus. & Prof. Code §§ 490 and 2761, subd. (f))

13. Respondent has subjected her registered nursing license to discipline under Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a Registered Nurse, within the meaning of California Code of Regulations, title 16, section 1444. The circumstances are as follows:

A. On or about August 31, 2010, in a prior criminal proceeding entitled *People v. Valerie Marie Delrio aka Valerie Marie Nobili* in Marin County Superior Court, Case Number CR171245A, Respondent was convicted by a guilty plea of violating Vehicle Code section 23152, subdivision (b), (Driving Under the Influence of Alcohol), a misdemeanor offense. Respondent was ordered to serve 3 years of probation, complete a first offender alcohol program, pay fines, and to comply with other terms and conditions. The record of the criminal proceeding is incorporated as if fully set forth.

B. The circumstances underlying the conviction are that on or about June 5, 2010, a California Highway Patrol officer observed Respondent collide with a concrete rail and concrete divider on the highway. Respondent told the officer that she only consumed two beers, however, Respondent's measured blood alcohol level was .25 percent. Respondent's vehicle suffered significant damage. Respondent was arrested for suspicion of driving under the influence of alcohol.

SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Use of Alcohol in a Dangerous Manner)
((Bus. & Prof. Code §§ 2761, subd. (a) and 2762, subd. (b))

14. Respondent has subjected her registered nursing license to discipline under Code sections 2761, subdivision (a), and 2762, subdivision (b), in that on or about June 5, 2010, she used alcoholic beverages in a manner dangerous or injurious to herself, any other person, or the public. The circumstances are more particularly set forth in Paragraph 13 and its subparts, above.

///

///

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Drug and Alcohol-Related Convictions)
((Bus. & Prof. Code §§2761, subd. (a), and 2762, subd. (c))

15. Respondent has subjected her registered nursing license to discipline under Code sections 2761, subdivision (a), and 2762, subdivision (c), in that she was convicted of a crime involving the consumption of alcoholic beverages. The circumstances are more particularly set forth in Paragraph 13 and its subparts, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 302192, issued to Valerie Marie Delrio;
2. Ordering Valerie Marie Delrio to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: July 18, 2011

for *Louise Bailey*
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2011201465/ accusation.rtf